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Attorneys for Plaintiffs Carson Smith,  
and SMITHONLY Corporation

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

CARSON SMITH, an individual, and  
SMITHONLY CORPORATION,

Plaintiffs,

v.

DENNIS HEALY, HOLLY HEALY, as  
individuals, SKY CORPORATION, LTD., an  
unincorporated business entity, RKD  
PREMIUM PRODUCTS, AN OREGON  
CORPORATION, KENNETH TANG, an  
individual, and K'S PREMIUM PRODUCTS  
COMPANY, an unincorporated business  
entity,

Defendants.

Civil No.: 10-CV-72-BR

**PLAINTIFF'S MOTION FOR  
REMAND TO STATE COURT**

Request for Oral Argument

Pursuant to LR 7.1(a), I hereby certify that the parties made a good faith effort through a telephone conference to resolve the dispute and have been unable to do so.

**1 – PLAINTIFFS' MOTION TO REMAND TO STATE COURT**

Plaintiffs, by and through their undersigned attorney, move this Court to remand this case to the Circuit Court of the State of Oregon, in and for Multnomah County, from which Court it was removed to this Court. In support of this Motion, the Plaintiffs' state the following:

1. Defendants' Notice of Removal alleges, as a the sole basis for removal, the fact the Plaintiffs' Complaint raises federal questions that are subject to federal court jurisdiction. There are in fact no federal questions raised and thus no federal subject matter jurisdiction to support removal to federal court. Thus, remand back to State court is required. Plaintiffs' offer, in support of this motion, the attached Memorandum of Law in Support of Plaintiffs' Motion to Remand.

**WHEREFORE**, the plaintiffs respectfully requests that this Court:

1. Remand the action to the Circuit Court of Multnomah County, Oregon.
2. Award Plaintiffs reasonable attorney's fees and costs incurred in conjunction with preparing this Motion for Remand; and
3. Grant any other relief this Court deems just and proper.

\_\_\_\_\_ **DATED** this 19<sup>th</sup> day in April, 2010.

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/s/Cary Novotny  
Cary Novotny, OSB #953688  
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\_\_\_\_\_  
Of Attorneys for Plaintiffs

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on April 19, 2010, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to the following:

Michael M Ratoza,  
Attorney for Defendants DENNIS HEALY, HOLLY HEALY, SKY CORPORATION, LTD.,  
and RKD PREMIUM PRODUCTS  
Bullivant Houser Bailey PC  
Of Attorneys for Defendants  
888 SW 5th Ave Ste 300  
Portland, OR 97204

DATED this 19th day of April 2010.

/s/Cary Novotny

Cary C. Novotny, OSB #953688

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